Current Issue Review

88-11E

TOXIC SUBSTANCES: FEDERAL-PROVINCIAL CONTROL

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Revised 16 August 1996

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Catalogue No. YM32-1/88-11-1996-08E
ISBN 0-660-16763-8

N.B. Any substantive changes in this publication which have been made since the preceding issue are indicated in **bold print.**

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ISSUE DEFINITION

There is widespread public concern about the effect of toxic substances on human health and the environment. The St. Basile le Grand fire, the Mississauga train derailment, and other such incidents in the 1980s focused public attention on this issue. Increasingly, people are turning to government to deal with their concerns and demanding that stringent standards be set and uniformly enforced across the country. A national poll conducted in June 1991 revealed that 86% of Canadians were disatisfied with efforts undertaken by government to ensure a clean environment. Successive federal governments have been aware that the public expects them to take a leading role in this area and to ensure that the various provincial governments follow suit.

The control and management of toxic substances in Canada has not been assumed by any one level of government and requires the input of both the federal and provincial governments. It is essential, therefore, that efforts are coordinated and made as uniform as possible. The success of interjurisdictional efforts to control toxic substances ultimately depends upon the adequacy of standards throughout the country, the effectiveness of mechanisms to enforce those standards and the ability of the federal and provincial governments to coordinate their efforts in this regard.

BACKGROUND AND ANALYSIS

A. Control of Toxic Substances under the Canadian Constitution

Jurisdiction over environmental matters and the control of toxic substances in particular does not fall clearly under any of the powers assigned to either the federal or the provincial governments under the Canadian constitution. Neither the *Constitution Act, 1867* nor subsequent amendments mention the environment or toxic substances. Some areas of the control of

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* The original version of this Current Issue Review was published in November 1988; the paper has been regularly updated since that time.

toxic substances have been regulated by the federal government; other areas have fallen to the provinces; for yet other areas, laws are overlapping, concurrent or joint.

Most often, the federal government has relied on its exclusive jurisdiction over navigation and shipping, sea coast and inland fisheries, the criminal law, interprovincial and international trade, and the residual power to make laws for the peace, order and good government of Canada (the p.o.g.g. power) as bases for legislation to control toxic substances. The provinces have relied on their power to legislate in relation to local works and undertakings, property and civil rights in the provinces, matters of a local or private nature within a province and lands, mines, minerals and royalties belonging to the provinces, among others.

The federal p.o.g.g. power has formed the constitutional framework for a number of federal environmental statutes. The courts have generally applied this power in the following circumstances: where a national emergency exists; where a situation or problem is not specifically dealt with in the constitution and is not of a local or private nature; and where the matter is of concern to the nation as a whole and cannot be effectively dealt with by the provinces.

The constitutional validity of national emission standards for secondary lead smelter emissions made pursuant to the federal *Clean Air Act* (now incorporated into the *Canadian Environmental Protection Act* (CEPA)) has been upheld on the basis of the p.o.g.g. power, the court having determined that the control of air quality transcends provincial jurisdiction and is not a matter of local or private concern. Similarly, the Supreme Court of Canada in the landmark case of *R.* v. *Crown Zellerbach Canada Limited (1988)* applied the national concern doctrine of the p.o.g.g. power in holding that the prohibition against dumping without a permit found in section 4(1) of the federal *Ocean Dumping Control Act* (now incorporated into the *Canadian Environmental Protection Act* (CEPA)) and, hence, the control of marine pollution, is a valid federal responsibility. On the other hand, in a judgment handed down on 6 August 1992 in *R.* v. *Hydro Quebec*, the Quebec Superior Court struck down an interim order on PCBs, made under Part II of CEPA, on the grounds that it was *ultra vires*. This ruling was upheld by the Quebec Court of Appeal in a decision rendered on 14 February 1995. **Leave to appeal was granted by the Supreme Court of Canada in October 1995.** If that Court upholds the decision, there could

be material implications for the ability of the federal government to regulate toxic substances under Part II of CEPA.

B. Legislation

Both the federal and provincial governments have enacted laws dealing with toxic substances. The principal federal statutes are the *Canadian Environmental Protection Act* (CEPA), which received Royal Assent on 28 June 1988 and was amended in 1989; the *Transportation of Dangerous Goods Act* (TDGA), the *Pest Control Products Act*; the provisions of the *Fisheries Act* that deal with substances deleterious to fish; and the *Motor Vehicle Safety Act*, pursuant to which motor vehicle emission standards are made.

The provinces have chosen a variety of means to deal with the control of toxic substances. Through environmental protection laws and other more specific statutes, they generally employ permits, licences, approvals and control orders to limit the discharge of toxic substances into the environment. In addition, the disposal and transportation of hazardous waste materials within a province are regulated.

A 1986 report by a federal task force on the management of chemicals noted that a proper management approach to chemicals cannot be effective without jurisdictional coordination and uniformity. It found that laws, programs, and guidelines often overlapped and that priorities conflicted.

The *Canadian Environmental Protection Act* is a comprehensive statute which replaces the federal *Environmental Contaminants Act* (ECA) and incorporates within its parameters provisions of other statutes relating to international air pollution (the *Clean Air Act*), ocean dumping (the *Ocean Dumping Control Act*), and the manufacture and use of cleaning agents and water conditioners containing nutrients (the *Canada Water Act*).

The *Environmental Contaminants Act* was passed in 1975 largely as a response to a 1972 federal task force report which noted that federal legislation did nothing to prevent damage to the environment by screening substances which are known or potential environmental contaminants. In addition, the task force noted that existing federal and provincial laws were *ad hoc* in their approach and reactive rather than preventative.

Few substances were regulated under the ECA. The criteria for regulating were onerous and the process for adding a substance to the list of substances to be regulated was cumbersome. In particular, the requirement that consultations should take place with the provinces to determine whether a matter could be dealt with by provincial measures limited federal opportunities to regulate under the ECA.

CEPA had two main purposes: first the need to overhaul a statute (ECA) that had become outdated and no longer responded adequately to public needs and concerns; and second, the need to harmonize Canadian law with that of other nations. This legislation is largely based on the p.o.g.g. power and the federal government's authority over criminal law. The ability to deal with environmental quality, though not a clear or exclusive federal responsibility, has, through CEPA, been linked to human life and health and thus to the p.o.g.g. power. The references in CEPA to "the environment on which human life depends," are attempts to create the legal and constitutional framework for federal action in this area.

Toxic substances have a multi-stage life cycle. For the most part, the stages can be described as research and development, introduction of the substance, manufacturing, transportation, distribution, use and disposal. The level of responsibility of the federal and provincial governments varies along that life-cycle continuum. For example, the federal government might have principal responsibility for the areas of research and development and the introduction of such substances; manufacturing, transportation and distribution might be shared responsibilities between the two levels of government; and use and disposal might be predominantly a provincial responsibility. The table on the following page provides an overview of federal and provincial authority in this area.

Since the implementation of CEPA, about 28,000 substances have been placed on the Domestic Substances List. Of these substances, 44 were selected for assessment and placed on the Priority Substances List. Of the 44 assessments, 25 substances were determined to be toxic and 6 were found to be non-toxic. Insufficient evidence prevented a conclusive determination from being made on the remaining 13, which were removed from the Priority Substances List. Regulations have been or are being developed to cover those substances determined to be toxic. **Under the second Priority Substances List, issued in December 1995, 25 additional substances have been selected for assessment.**

PROVINCIAL AND FEDERAL AUTHORITIES FOR ENVIRONMENTAL PROTECTION*

ACTIVITY	INFORMATION GATHERING	ASSESSMENT	CONTROL
Manufacturing	F,P	F,P	F,P[2]
Processing	F,P	F,P	F,P[2]
Use	F,P	F,P	F,P[2]
Import	F,P	F,P	F
Release from Commercial, Industrial and Governmental Activities[1]			
- spills	F,P	F,P	F,P
- abandonment	F,P	F,P	F,P
- releases to air, water, land	F,P	F,P	F,P
- disposal	F,P	F,P	F,P
Environmental Fate and Toxicology	F,P	F,P	

*F = Federal authority
*P = Provincial authority

1. Provincial legislation in general does not apply to federal facilities.

2. Potentially an indirect control, provincial authority in this area involves the assessment of manufacturing, processing and use activities for the purpose of controlling the release, not the activity.

Source: Final Report of the *Environmental Contaminants Act*, Amendments, Consultative Committee (1986), Appendix 6

In June 1995, Environment Canada released a publication entitled *Toxic Substances Management Policy*, which sets out the federal government's new policy on the management of toxic substances. This policy, which would apply to all substances of concern that can be regulated federally, whether under CEPA or some other federal statute, proposes the following two-track approach:

- the virtual elimination from the environment of toxic substances that result predominantly from human activity and that are persistent and bioaccumulative; and
- the management of other toxic substances and substances of concern, throughout their entire life cycles so as to prevent or minimize their release into the environment.

The federal government's new policy was criticized by the House of Commons Standing Committee on Environment and Sustainable Development, which tabled its year-long review of CEPA on 20 June 1995. Expressing regret that the government had decided to launch a new policy on the eve of the Committee's scheduled tabling of its report, the Committee took issue with the government's new policy because it was based on the continued use of the definition of "toxic" under CEPA or its equivalent; the Committee considered this definition too stringent since it would require a full risk assessment of the substances in question. The Committee also was critical of the new policy because it would allow the most dangerous types of substances, those that were toxic, persistent *and* bioaccumulative, to be used in commerce, provided the proponent of a substance could demonstrate that it would not be released into the environment. In the Committee's opinion, its own proposal for dealing with toxic substances was preferable, since it would cast a wider net, thereby leading to the eventual elimination of a greater number of substances of concern. **In its 14 December 1995 response to the Committee's recommendations, the federal government essentially reiterated the approach outlined in its June 1995 publication, *Toxic Substances Management Policy*.**

C. The Political Arena

The legal framework for the control of toxic substances cannot be isolated from the political realities of environmental management. There has been a certain reluctance on the part of the federal government to intrude upon areas of provincial jurisdiction, and it has often been suggested that the provinces have enacted environmental protection laws to curb federal involvement in the area. In the past, reductions in the financial resources available at the federal level to deal with environmental issues have allowed the provinces greater scope for involvement.

These factors, among others, have produced a noticeable division of functions in the regulation of toxic substances in Canada. In essence, the federal government has maintained a leadership role in terms of setting and developing standards, guidelines and environmental quality objectives but has relegated actual regulation and enforcement to the provinces.

D. Federal-Provincial Co-operation

The interjurisdictional components of the regulation of toxic substances necessitate federal-provincial cooperation. Such cooperation can take place through both formal and informal mechanisms. Some of the mechanisms now employed are federal-provincial agreements and accords, advisory bodies, working-level task forces and committees and inter-ministerial coordinating bodies.

1. General Federal Accords with the Provinces

In the mid-1970s the federal government signed agreements for the protection and enhancement of environmental quality with seven of the ten provinces. (No agreements were reached with Newfoundland, Quebec or British Columbia). The objectives of these accords were to enhance the effectiveness of environmental control activities and to provide a framework for more specific agreements relating to particular problem areas.

Pursuant to these agreements, the provinces agreed to establish and enforce environmental requirements at least as stringent as federal requirements. For its part, the federal

government agreed, after consultation with the provinces, to establish national ambient air and water quality objectives and to develop national baseline effluent and emission requirements and guidelines for specific industrial groups and specific pollutants.

A significant aspect of the agreements was the manner in which the enforcement of environmental standards was handled. The agreements accorded the primary responsibility for enforcement to the provinces while providing that federal authorities would undertake enforcement action at federal facilities, unless otherwise agreed upon, at the request of a province, or where a province failed to fulfil its obligations with respect to a matter of federal jurisdiction administered by it.

A 1984 Law Reform Commission of Canada draft paper on the prosecution of environmental offences suggested that encouraging the provincial governments to take a leading role in enforcement does not allow for a uniform approach since many of the provinces have differing enforcement schemes. The paper went on to conclude that the delegation of environmental enforcement authority constituted an abdication of responsibility on the part of the federal government and promoted inconsistencies in enforcement.

While the accords referred to above are no longer in force, an accord on environmental cooperation was signed with the Yukon Territory on 8 August 1992. In addition, on 31 May 1994, the federal government and the governments of the four Atlantic provinces signed an environmental accord creating a joint management regime to reduce overlap and duplication. This agreement is in keeping with the larger environmental management framework that is currently being developed under the auspices of the Canadian Council of Ministers of the Environment (CCME) and referred to later in this paper.

2. Agreements under CEPA

The environmental accords were not used to develop specific toxic substances control agreements with the provinces. CEPA, however, directly contemplates such agreements by allowing the Governor in Council, upon the recommendation of the Minister of the Environment, to recognize, by order, the primacy of provincial regulations relating to toxic substances where the Minister and the government of a province agree, among other things, that the province has in

force provisions equivalent to the federal regulations applying to the toxic substance. The presence of an "equivalency agreement" with a province means that the toxic substance to which it applies will be regulated under provincial law rather than under CEPA. Thus, the incentive for a province to enter into an equivalency agreement is the opportunity to regulate toxic substances under its own regulatory scheme.

According to the Enforcement and Compliance Policy published by Environment Canada in May 1988, the factors to establish equivalency will include: (a) equal level of control as sanctioned by law; (b) comparable compliance measurement techniques; (c) comparable penalties; (d) comparable enforcement policies and procedures that are consistent with the federal CEPA Enforcement and Compliance Policy; and (e) comparable rights of individuals resident in Canada to request investigation of a suspected offence and to receive a report of the findings.

Under the CEPA Federal-Provincial Advisory Committee, the Working Group on CEPA Partnerships developed a report in 1992 addressing the processes and procedures to be used to judge equivalency. This report has facilitated negotiations. Draft equivalency agreements are currently being contemplated by some provinces and, on 1 June 1994, the first such agreement pursuant to CEPA was signed, with Alberta.

In addition, section 98 of CEPA allows for agreements with the provinces with respect to the administration of the Act. Such agreements, for example, were signed with Saskatchewan on 15 September 1994 and with the Yukon on 16 May 1995. Sector-specific administrative agreements have also been negotiated with some provinces under the same CEPA provision and under section 5 of the *Fisheries Act*, on the enforcement of the pulp and paper regulations pursuant to those Acts. One example is the agreement signed with Quebec, on 6 May 1994.

The Minister is required to report annually to Parliament on the administration of the various federal-provincial agreements made under CEPA including those dealing with the enforcement of equivalent provincial requirements.

3. Federal-Provincial Advisory Committee

The Federal-Provincial Advisory Committee (FPAC) was established under CEPA to advise Ministers on the making of regulations relating to toxic substances. The Committee consists of representatives from the federal government, both from Environment Canada and from Health and Welfare Canada, and from the governments of each of the provinces and territories. The Committee works to ensure a cooperative approach to federal-provincial consultation on environmental protection regulatory activities and toxic substance management. FPAC works toward the establishment of nationally consistent levels of environmental quality through harmonizing standards, adopting life-cycle and preventative approaches, and minimizing duplication.

FPAC meets two to four times per year and consultations are also conducted through correspondence and conference calls. Under the auspices of the Committee, federal-provincial working groups are established to deal with specific issues as required.

4. Coordination Among Environment Ministers

The Canadian Council of Ministers of the Environment (CCME) has played a significant role in the coordination of environmental initiatives at the ministerial level. Having emerged from the 1961 Resources for Tomorrow Conference as a forum for Canadian resource ministers, its mandate was expanded in 1971 to include environmental management. The CCME is now a forum for discussion and joint action on matters of national, international and global environmental concern.

The CCME meets at least twice a year. There is discussion of environmental issues, information exchange, and the establishment of policies to direct the work to be carried out on behalf of the CCME between meetings. The CCME's work is carried out by a Deputy Ministers Committee and a full-time Secretariat. Among the CCME's more recent initiatives is a proposal to improve environmental management within Canada. Known as the "harmonization initiative," this co-operative scheme would establish a new environmental management regime for Canada. It would define federal and provincial/territorial roles, eliminate overlap and duplication,

and make environmental legislation and regulations more consistent across the country. The guiding principles and objectives for the harmonization initiative were set out in a document published in the spring of 1994, entitled *Rationalizing the Management Regime for the Environment.*

As initially proposed by the CCME, the harmonization initiative would have consisted of an intergovernmental framework agreement and 11 schedules dealing with the following areas of environmental management: monitoring; compliance, licensing and approvals; environmental impact assessment; international agreements; research and development; guideline development; legislation, regulation and policy; communications and education; state of the environment reporting; and pollution prevention and emergency response.

In December 1994, the main framework agreement (the Environmental Management Framework Agreement) and four schedules (monitoring; compliance, licensing and approvals; environmental impact assessment and international agreements) were released in draft form for public comment. **A modified main framework agreement was released to the public in October 1995, along with 10 of the 11 schedules (excluding the schedule on environmental impact assessment). Work on the harmonization initiative was subsequently suspended, due in part to the proposal's controversial nature. Negotiations resumed, however, following a meeting of the Council of Ministers, in May 1996. It was decided to continue working toward harmonization, but with a new approach calling for a more gradual progression towards this goal. Under the current plan, a new draft main agreement and new draft agreements on inspection and on standards would be submitted for the Ministers' consideration by November 1996. As well, the next priority areas would be identified, including: policy and legislation, monitoring, research and development, and international agreements. By the spring of 1997, a new draft agreement on environmental assessment would in turn be submitted for the Ministers' consideration, and approaches to the next priority areas would be determined.**

E. The Green Plan

On 11 December 1990, the then Environment Minister Robert de Cotret released the Green Plan, a five-year environmental "action plan" for Canada. The Green Plan was extended over six years as a result of the 26 February 1991 federal Budget. It included a number of policies and programs designed to deal with toxic substances.

Among other things, the Plan announced that the federal government would assess 100 priority substances, including the 44 potentially hazardous substances on the first Priority Substances List.

A number of measures designed to increase the environmental awareness of individual Canadians were also included in the Plan, including some directed at helping Canadians eliminate the threat of toxic substances. These measures included a national data base for hazardous pollutants, the National Pollutant Release Inventory (NPRI), established under the *Canadian Environmental Protection Act* (CEPA) in 1993. The first NPRI report, containing data on 178 specific substances, was released in April 1995.

The Green Plan also included measures directed at identifying and addressing certain human health problems connected with environmental pollution, such as initiatives to improve the safety of our drinking water and further regulate ocean dumping, which may have a bearing on toxic substance controls.

F. Auditor General's Report

The Auditor General's latest report, released in May 1995, was generally satisfied with Environment Canada's implementation of the Ocean Dumping Control Action Plan, which was proceeding on schedule. However, the Auditor General was critical of the federal government's record with respect to the clean-up of contaminated sites and the destruction of federal PCB wastes. He noted that past management practices had passed on to the federal and provincial governments a legacy of contaminated sites and a quantity of PCB wastes. The goals and deadlines set by the federal government to deal with the sites and to destroy the wastes or store them safely had proven to be unrealistic.

The Auditor General stated that the 1988 federal PCB Destruction Program had been only a limited success. He was concerned that, with the termination of the Program in March 1995, Environment Canada had ended its leadership role in the management of PCB destruction, without devising a plan to guide federal departments to further consolidate their PCB wastes, reduce their volume, and develop action plans for their destruction. He also questioned whether the federal government's proposal to consider using the PCB destruction facility in Swan Hills, Alberta, would prove satisfactory. As to the clean-up of contaminated sites, the Auditor General observed that much work remained to be done. Noting that the National Contaminated Sites Remediation Program (a federal-provincial initiative set up by the CCME in 1989 with a budget of $250,000) had also come to an end in March 1995, he pointed out that only 11of 48 high-risk sites identified for remediation under the Program had been cleaned up by that date; nor had a national plan and a federal fund been created for cleaning up the remaining contaminated sites. Moreover, no comprehensive and consistent information on the number and characteristics of contaminated sites in Canada had been compiled. He further pointed out that of the 1,200 *federal* contaminated sites identified, only a small portion had been remediated so far and that total estimated clean-up costs could exceed $2 billion. The Auditor General faulted the Department for failing to provide Parliament with adequate information under Part III with respect to the National Contaminated Sites Remediation Program, including the actual costs incurred under the Program and its results.

The Auditor General pointed out that no analysis had been made of the potential consequences to present and future generations of terminating the National Contaminated Sites Remediation Program and the PCB Destruction Program, though such information would be important to Parliament in assessing any funding requests for dealing with the legacy of hazardous wastes.

PARLIAMENTARY ACTION

The *Canadian Environmental Protection Act* provides in section 139 that its administration shall be reviewed by a committee of the House of Commons, or both Houses of Parliament, within five years of its enactment. The review was referred to the House of Commons Standing Committee on Environment by Order of Reference on 9 June 1993. The 34th Parliament was dissolved, however, before this review could be undertaken. In the 35th Parliament, the

CEPA review was referred to the House of Commons Standing Committee on Environment and Sustainable Development by Order of Reference on 10 June 1994.

The House of Commons Standing Committee on Environment and Sustainable Development tabled its report on 20 June 1995. Entitled *It's About Our Health! Towards Pollution Prevention*, this report made 141 detailed recommendations for change.

In general terms, the Committee considered that the Act had been largely ineffectual in dealing with substances of concern and had been poorly enforced and administered. Noting that new developments and trends in environmental thinking were quickly overtaking CEPA, the Committee felt that a new approach was needed. CEPA's overarching policy goal, the Committee stated, should be to contribute to sustainable development through the application of such principles as pollution prevention, the ecosystem approach, biodiversity, the precautionary principle and user/producer responsibility. In the Committee's opinion, a major shift in emphasis was required under CEPA, from managing pollution after it had been created toward preventing pollution in the first place. In order to improve the assessment process for substances under the Act, the Committee recommended that the definition of "toxic" be modified to include *both* risk assessment and hazard assessment, and that the following three-track system be adopted for assessing and managing substances of concern:

- Track 1 would establish a presumption of sunsetting for any substance that had already been sunsetted or banned in a Canadian province or a member nation of the Organisation for Economic Co-operation and Development (OECD), or for any substance that was persistent, bioaccumulative and inherently toxic;

- Track 2 would establish a presumption of "toxic" designation for any substance that was regulated in any Canadian province or in any member nation of the OECD; and

- Track 3 would involve the ongoing assessment of substances on the Priority Substances List, which should be refocused to include more classes of substances, effluents and wastes.

The Committee also advocated that the federal government play a strong leadership role in protecting and managing the Canadian environment. Notably, the federal government should set national standards for matters coming under its jurisdiction and for issues of "national concern"; it should promote the establishment of national standards in areas requiring inter-jurisdictional cooperation; and it should lead cooperative efforts to minimize unnecessary overlap

and duplication and to harmonize to the highest possible standard the various provincial, territorial, aboriginal and national environmental management regimes. Other noteworthy recommendations included:

- the scope of the definition of "ocean dumping" should be broadened to include the disposal of substances from wharves and intertidal zones; ocean dumping should be allowed only if the applicant demonstrates that it is the best option from an environmental perspective; and CEPA should prohibit all dumping of substances that are not on an exclusive list of authorized substances;

- a national coastal zone management policy should be developed;

- the scope of Part V of CEPA (international air pollution) should be broadened to address transboundary water pollution;

- lead shot and lead sinkers should be banned by 31 May 1997;

- the federal government should prepare a comprehensive inventory of all federal contaminated sites and develop an action plan and schedule for the clean-up of all high-risk federal contaminated sites;

- a federal safety net to handle environmental emergencies should be created under the Act and the federal government should initiate discussions with the provinces and territories to develop a national, single-window system for the registration of all sites containing hazardous substances exceeding prescribed thresholds. All federal entities should also be subject to a comprehensive emergency management system.

- in the short term, federal entities should be subject to provincial and territorial environmental regulations in those areas in relation to which no federal regulations have been adopted; in the longer term, comprehensive regulations incorporating the highest environmental standards should be developed for federal entities. All federal departments and agencies should also be required to develop specific environmental management plans and appoint a senior official within their organization to promote environmental issues;

- self-government and land claims settlements should include provisions to establish environmental protection regimes and adequate resources should be provided to the aboriginal peoples who seek to establish control over the environmental protection of their lands. A framework should also be established between the federal government and the aboriginal peoples to discuss the process for amending CEPA as it relates to the latter;

- the federal government should continue to fund northern science, in particular on the sources, pathways and effects of contaminants;

- to promote greater involvement by the public in environmental decision-making, an electronic public registry for environmental information should be established; the scope of the National Pollutant Release Inventory (NPRI) should be broadened; the notice, comment, and appeal provisions under CEPA should be strengthened; the circumstances in which claims for confidentiality may be sustained should be narrowed; improved whistleblower protection should be provided; citizens' suits should be allowed; and an environmental fund should be created which, among other things, would be used to provide participant funding;

- a separate enforcement office with regional branches should be created; detailed information on enforcement action should be publicized; a system of administrative monetary penalties should be created as an alternative to criminal prosecutions; and the powers of inspection should be improved in a number of material respects;

- the public should be informed of and consulted on any proposed administrative or equivalency agreement entered into with the provinces and territories under CEPA and the *Fisheries Act*. Such agreements should take effect only after being approved by the House of Commons, and they should be reviewed periodically.

The two members of the Committee from the Official Opposition wrote a dissenting opinion. Although agreeing with the Committee's conclusion that CEPA had not had the intended impact, they disagreed profoundly with the solutions proposed by the Committee for improving the effectiveness of CEPA and of environmental issues generally. They rejected the report in its entirety on the grounds that it advocated a centralizing approach to environmental management in Canada and was unfairly biased against the provinces.

Pursuant to Standing Order 109, the Committee requested the government to provide it with a comprehensive response to its recommendations within 150 days. **The response was tabled on 14 December 1995.**

CHRONOLOGY

1972 - Report of the federal *Task Force on Environmental Contaminants Legislation* recommended the need for a comprehensive environmental contaminants statute.

1976 - The *Environmental Contaminants Act*, passed by the federal Parliament in 1975, was proclaimed in force.

October 1986 - The final report of the *Environmental Contaminants Act* Consultative Committee was issued. The report suggested a series of amendments to the ECA.

December 1986 - Draft environmental protection legislation was made public by the federal Minister of the Environment.

26 June 1987 - Bill C-74, the Canadian Environmental Protection Act was introduced in the House of Commons.

May 1988 - The Department of the Environment issued an enforcement and compliance policy statement to be employed in connection with the Canadian Environmental Protection Act.

30 June 1988 - The *Canadian Environmental Protection Act* was proclaimed in force.

11 December 1990 - The federal Green Plan was released.

6 August 1992 - The Quebec Superior Court, in *R.* v. *Hydro Quebec*, struck down an interim order on PCBs, made under Part II of the *Canadian Environmental Protection Act*, on the grounds that it was *ultra vires*.

10 June 1994 - The House of Commons issued an Order of Reference to the House of Commons Standing Committee on Environment and Sustainable Development to conduct a comprehensive review of the provisions and operation of the *Canadian Environmental Protection Act* as mandated by section 139 of the Act.

14 February 1995 - The Quebec Court of Appeal upheld the ruling of the Quebec Superior Court in *R.* v. *Hydro Quebec.*

June 1995 - Environment Canada released a new policy, entitled *Toxic Substances Management Policy*.

20 June 1995 - The House of Commons Standing Committee on Environment and Sustainable Development tabled its report on the review of CEPA entitled *It's About Our Health, Towards Pollution Prevention.*

14 December 1996 - The federal government tabled its response to the recommendations made by the House of Commons Standing

Committee on Environment and Sustainable Development in its June 1995 report on the CEPA review.

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